



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 7751-99

22 June 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552
(b) BUPERSINST 1900.8

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's Naval Record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy, applied to this Board requesting, in effect, that his reenlistment code be changed.

2. The Board, consisting of Ms. Nofziger, and Messrs Chapman and McCulloch reviewed Petitioner's allegations of error and injustice on 14 June 2000, and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that Petitioner's application to the Board was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. The Board found that Petitioner reenlisted in the Navy on 18 August 1989 for four years as a BT3 (E-4). At the time of his reenlistment, he had completed more than five years of prior

active service. Incident to his discharge from the Navy, he received a marginal performance evaluation for the period 1 July 1992 to 10 May 1993, and was not recommended for reenlistment. On 10 May 1993, Petitioner was honorably discharged by reason of "general demobilization-reduction in authorized strength", and assigned an RE-4 reenlistment code. His normal date of expiration of enlistment was 17 August 1993. He had no disciplinary actions in nearly nine years of service and his military behavior and overall traits averages were both 3.6. Petitioner had completed eight years, nine months, and 22 days of service at the time of his discharge.

d. Petitioner states he elected to be discharged in May 1993 due to problems he was having with his son at the time. Since his discharge, he has earned a bachelor of arts degree.

e. Reference (a) was issued on 28 June 1993 with an effective date of 1 October 1993. Reference (a) authorized the assignment of an RE-6 reenlistment code to individuals who were ineligible for or denied reenlistment due to high year tenure. An RE-4 reenlistment code means an individual is ineligible for reenlistment without prior approval from Commander, Navy Personnel Command.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board notes that in nearly nine years of service, Petitioner had no disciplinary actions and despite a single marginal performance evaluation, his overall traits average was 3.6. The Board also notes at the time of Petitioner's discharge, he could not reenlist without approval of the Navy Personnel Command since a minimum reenlistment would have exceeded the ten-year high year tenure limit for his pay grade. However, he could have extended his enlistment and had he done so, he would have been eligible for assignment of an RE-6 reenlistment code. The Board believes that it is unfair to stigmatize his otherwise good service with the most restrictive RE-4 reenlistment code. Accordingly, the Board concludes that it would appropriate and just to change to reenlistment code to RE-6 as an exception to policy to correspond more closely to his overall service.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by changing the RE-4 reenlistment code, assigned on 10 May 1993, to RE-6. This should include the issuance of a new DD Form 214.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross references being made a part of Petitioner's naval record.


4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6 (e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6 (e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director